IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

WP(C).No. 10063 of 2007(W)

PETITIONER:

M/S.N.K.EXPORTS, SILK STREET,
CALICUT REPRESENTED BY ITS MANAGING PARTNER,
K.RIYAS.

BY ADV. SRI.A.V.MURALIDHARAN
SRI.C.AJITH KUMAR

RESPONDENTS:
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1. THE ASST.COMMISSIONER, DEPT. OF
COMMERCIAL TAXES, SPECIAL CIRCLE-II,
KOZHIKODE.

2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
KOZHIKODE.

BY GOVT. PLEADER SRI.MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 10063 OF 2007-W

JUDGMENT

The petitioner attacks Ext.P6 interim order, by which it has been directed to pay one-third of the balance tax due under the impugned order, Ext.P1 and to furnish security for the balance amount. The petitioner submits, certain C Forms filed by it were rejected on the ground of certain defects in them. It was not given an opportunity to cure the defects. The learned counsel for the petitioner also submitted that the petitioner was not served with any pre-assessment notice regarding the C.S.T.

2. Going by Ext.P1 assessment, it is clear that the petitioner has been served with pre-assessment notice regarding the C.S.T and it has filed its reply also. In fact, the objection filed against the assessment of G.S.T was forwarded along with the objection regarding the C.S.T., as evident from Ext.P1 assessment order. Since the C Forms were defective, the assessing authority cannot be blamed for not acting on them. But, I find the petitioner will get a chance to cure the defects of the C Form before the appellate forum. The Appellate Authority has directed the petitioner to pay only one-third of the amount assessed. In think, going by the grounds

raised, it cannot be said to be an arbitrary or unreasonable order. Accordingly, the challenge against Ext.P6 is repelled. The petitioner is given time to pay the said amount up to 31.3.2007. If it moves for early hearing of the appeal, the appellate authority will consider and pass orders on the said motion.

The Writ Petition is dismissed subject to the above direction.

23rd March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/